

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 63, 65 AND 69]

Seasons, Sizes and Creel Limits; General and Special Fishing; Fishing in Lake Erie and Boundary Lakes

The Fish and Boat Commission (Commission) proposes to amend Chapters 61, 63, 65 and 69. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking relates to changing the opening day of the regular trout season and implementing a regional opening day program. The proposed rulemaking includes conforming changes.

A. *Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2004. The Commission will consider delaying the effective date of the proposed rulemaking until January 1, 2005.

B. *Contact Person*

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposal is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

The proposed amendments to §§ 61.1, 61.2, 63.43, 65.10, 65.12 and 69.12 are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendment to § 63.20 (relating to permits for the protection and management of trout and salmon) is published under the statutory authority of section 2904 of the code (relating to permits for protection and management of particular fish). The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Due to variations in this Commonwealth's topography and climate, the potential of increasing trout fishing opportunities exists. Typically, while many trout stocked waters in northern and central counties are barely recovered from winter's icy grip, those in southern areas are ideal for recreational trout angling. Warming spring temperatures create optimum stocked trout fishing opportunities earlier in southern Pennsylvania, but similarly these warming conditions can limit stocked trout fishing opportunities later in the season.

Changes in angler activities as warmer temperatures impact streams and lakes also can affect the utility of

inseason trout stocking. Angler use and harvest studies indicate trout anglers in urban and suburban areas decrease fishing by mid-May, and responses to late spring stockings are often limited to the first couple of days after stocking. Conflicts with other warm weather activities can limit trout fishing participants in southeastern Pennsylvania because the climate warms earlier in this area of this Commonwealth.

Based on air temperature data provided by weather specialists at The Pennsylvania State University, Commission staff initially identified an 18-county area of southeastern Pennsylvania that should accommodate an earlier opening day. Trout production personnel are currently evaluating the feasibility of having preseason stocking completed in this area for a new regional opening day. The size of the region for the early opener would depend on the capabilities of the trout production staff and could be reduced as necessary. For the most part, with a few exceptions, county lines fit the approach nicely. The regional opening day approach should align stocked trout management in this part of this Commonwealth more closely with optimum climate and environmental conditions for the program and would provide additional opportunity for recreation and to manage waters closer to their potential.

Accordingly, the Commission is proposing and soliciting comments on a new special regulations program (§ 65.12 (relating to Regional Opening Day of Trout Season Program)) that would allow the Executive Director, with the approval of the Commission, to designate waters in certain counties or watersheds as waters subject to the Regional Opening Day of Trout Season regulations. The regional opening day of the trout season for these waters would be the first Saturday in April. These waters would be closed to all fishing effective midnight February 14. The designation of these waters would be effective after publication of a notice of designation in the *Pennsylvania Bulletin*. Although Commission staff initially selected approved trout waters in counties located in southeastern Pennsylvania, the program could be extended in the future to waters in other parts of this Commonwealth where conditions support their inclusion in the program. Lakes managed under the Select Trout Stocked Lake Program included in the new regional opening day program would be closed to angling at midnight March 14.

For other approved trout waters, not part of the regional opening day special regulation program, the Commission proposes a minor adjustment in the opening day from the current first Saturday after April 11 to 8 a.m. on the third Saturday in April. This change would move the regular opening day window back from the period April 12 to April 18 to the period April 15 to April 21. In light of the early regional opening day program, it is appropriate to move back the opening day in the rest of this Commonwealth to try to take advantage of better weather. Accordingly, the Commission proposes the amendments, including conforming changes, to read as set forth in Annex A.

In addition to seeking public comments on the proposed changes in Annex A, the Commission is soliciting public comments on the following alternatives: (1) an amendment that would implement a regional opening day of the first Saturday in April with a regular opening day of 8

a.m. on the second Saturday in April; (2) an amendment that would change the opening day of the regular trout season from the 8 a.m. on the first Saturday after April 11 to 8 a.m. on the first Saturday in April; and (3) an amendment that would change the opening of the regular trout season from 8 a.m. on the first Saturday in April to 8 a.m. on the third Saturday in April. Anglers also are invited to submit comments on other concepts for opening day.

The Commission intends to hold a public meeting to gather additional public input.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-142. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. [first Saturday after April 11,] third Saturday in April to midnight Labor Day	7 inches	5—Streams, lakes and ponds (combined species) except areas with special regulations
	Extended Season: Streams listed as approved trout waters and all waters downstream of streams listed as approved trout waters plus lakes and ponds		
	January 1—last day of February and day after Labor Day to midnight, last day of February of the following year.	7 inches	3 (combined species)
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§ 61.2. Delaware River and River Estuary.

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(d) The following seasons, sizes and creel limits apply to the Delaware River and to Delaware River tributaries from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
TROUT	8 a.m., [first Saturday after April 11] third Saturday in April to midnight, September 30	North of I-84: 14 inches	North of I-84: 1 (combined species)
		South of I-84: no minimum	South of I-84: 5 (combined species)
		West Branch Delaware River:* 12 inches	West Branch Delaware River:* 2 (combined species)
AMERICAN EEL	One year-round	8 inches	50
* * * * *			

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.20. Permits for the protection and management of trout and salmon.

* * * * *

(f) *Fish for trout or salmon.* A person fishes for trout or salmon when one of the following applies:

* * * * *

(2) The person fishes in streams or rivers that are approved trout waters as defined in § 63.3 (relating to fishing in approved trout waters) or their tributaries during the 2 week period [from 8 a.m. on the first Saturday after April 11 until 12:01 a.m. on the first Saturday in May] that begins on the opening day of trout season as specified in § 61.1 (relating to Commonwealth inland waters).

* * * * *

§ 63.43. Fishing for bass during spring season.

During the period from 12:01 a.m. on the [first Saturday after April 11] opening day of trout season as specified in § 61.1 (relating to Commonwealth inland waters) until 12:01 a.m. on the first Saturday after June 11:

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CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.10. Select Trout Stocked Lake Program.

* * * * *

(b) It is unlawful to fish in waters designated as part of the Select Trout Stocked Lake Program except in compliance with the following requirements:

(1) Notwithstanding § 63.3 (related to fishing in approved trout waters), fishing is permitted from March 1

until midnight, March 31, except in those waters designated under § 65.12 (relating to Regional Opening Day of Trout Season Program). Those waters designated under § 65.12 shall be closed to fishing at midnight March 14 until the applicable opening day.

* * * * *

§ 65.12. Regional Opening Day of Trout Season Program.

(a) The Executive Director, with the approval of the Commission, may designate waters in certain counties or watersheds as part of the Regional Opening Day of Trout Season Program. The designation of waters as part of the Regional Opening Day of Trout Season Program shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Regional Opening Day of Trout Season Program except in compliance with the following requirements:

(1) These waters shall be closed to all fishing effective midnight February 14 until opening day.

(2) The regular season for these waters shall be the first Saturday in April until midnight Labor Day.

(3) Except as otherwise provided in this section, the Statewide sizes and creel limits and extended season shall apply. See § 61.1 (relating to Commonwealth inland waters).

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

County	Name of Water	Special Regulations
Mercer	Shenango River from the dam downstream to SR 3025, a distance of 1.5 miles.	Closed season on trout: April 1 until 8 a.m., [first Saturday after April 11] the opening day of trout season in April. Daily limit—Opening day of trout season in April until Labor Day: five trout per day; day after Labor Day to midnight, March 31 of the following year—three trout per day. Inland regulations apply to warmwater/coolwater species.
* * * * *		

<p><i>County</i> Somerset, Fayette, Westmoreland and Allegheny</p>	<p><i>Name of Water</i> Youghiogheny River from confluence with Casselman River downstream to the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river. Youghiogheny River from Reservoir downstream to confluence on Casselman River.</p>	<p><i>Special Regulations</i> No closed season on trout. Daily limit opening day of trout season to Labor Day—[5] five trout; day after Labor Day to succeeding opening day of trout season—[3] three trout per day. Inland regulations apply to warmwater/coolwater species. Closed season on trout: April 1 until 8 a.m., [first Saturday after April 11] the opening day of trout season in April. Daily limit—Opening day of trout season in April until Labor Day—five trout per day; day after Labor Day to midnight, March 31 of following year: three trout per day. Inland regulations apply to warmwater/coolwater species.</p>
* * * * *		
<p>Wyoming</p>	<p>Lake Winola</p>	<p>Bass—It is unlawful to take, catch, kill or possess bass that are 12 to 18 inches in length. The daily creel limit for bass less than 12 inches in length and greater than 18 inches in length is [6] six, only one of which may exceed 18 inches in length. Closed to all fishing from 12:01 a.m. March 1 to 8 a.m. [the first Saturday after April 11] the opening day of trout season in April.</p>

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES
Subchapter B. SPORT FISHING AND ANGLING

§ 69.12. [Season] Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries.

* * * * *

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
* * * * *			
TROUT and SALMON	<p>[First Saturday after April 11] 8 a.m. third Saturday in April until midnight Labor Day.</p> <p>12:01 a.m. the day after Labor Day until midnight on the Friday before the [first Saturday after April 11] third Saturday in April</p>	<p>9 inches</p> <p>15 inches</p>	<p>5 (combined species only 2 of which may be lake trout).</p> <p>3 (combined species only 2 of which may be lake trout).</p>
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[Pa.B. Doc. No. 03-1118. Filed for public inspection June 13, 2003, 9:00 a.m.]

[58 PA. CODE CH. 65]
Wild Brook Trout Enhancement

The Fish and Boat Commission (Commission) proposes to amend § 65.13 (relating to wild brook trout enhancement). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking relates to enhancing wild brook trout populations.

A. Effective Date

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2004.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposal is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

E. Summary of Proposal

Historically, brook trout are the only stream dwelling trout native to this Commonwealth's streams. Currently, special regulations for wild trout are typically applied to waters that support wild brown trout or a combination of wild brook and brown populations. Because brook trout dominate in smaller headwater reaches and tributary streams and there typically is a transition to brown trout downstream areas, very few waters under special regulations are dominated by wild brook trout. Based on discussions with various wild trout angling groups and feedback from the recent Trout Summit, there is interest in developing regulations directed at enhancing the abundance of larger, older wild brook trout in this Commonwealth's streams. The general concept is to reduce the effect of harvest of brook trout on the number of older and larger brook trout. The approach being sought is to apply regulations on a watershed basin level (main stem and tributaries) or a portion of the basin to provide a larger area for this management strategy to provide

increased protection for larger brook trout in selected streams.

The Commission proposes two options for consideration. The preferred option, which is set forth in Annex A, provides for catch and release. Catch and release of wild brook trout in this program would allow fishing year-round (no closed season) with no tackle restrictions. This proposal would provide the maximum protection for all wild brook trout while appealing to a broad range of anglers. All other trout species would be under conventional seasons, sizes and creel limits.

The Commission is also seeking public comments on a second option that imposes a 7-inch maximum size limit on wild brook trout. A 7-inch maximum size limit on brook trout would allow anglers the opportunity to harvest some brook trout while affording the larger, older brook trout maximum protection from angling. Fishing would be permitted year-round (no closed season) with no tackle restrictions. The creel limit would be five trout per day from opening day through Labor Day, and no harvest from midnight Labor Day to 8 a.m. the opening day of the regular trout season. All other trout would be subject to conventional seasons, sizes and creel limits.

Some potential waters for inclusion in the wild brook trout enhancement program are shown in the following table.

<i>Stream</i>	<i>County</i>	<i>Limits</i>	<i>Length Miles</i>	<i>Tributary Length Miles</i>
Tubbs Run	Forest	Entire Watershed	4.9	1.2
Minister Creek	Forest	Entire Watershed	5.0	3.6
Birch Run	Potter	Entire Watershed	5.3	
Cooks Run	Cameron	Entire Watershed	4.0	12.1
Lyman Run	Potter	Headwaters downstream to confluence with Lyman Lake	5.3	12.0
Kettle Creek	Tioga/Potter	Headwaters downstream to confluence with Long Run	10.7	17.6
N. Br. Buffalo Creek	Union	Headwaters downstream to Mifflinburg Rs	7.0	3.0
W. Br. Fishing Creek	Sullivan	Headwaters downstream to confluence with Hemlock Run	2.5	2.9
Mill Brook	Pike	Entire watershed	2.5	0.9
Wolf Swamp Run	Monroe	Entire watershed	2.1	3.2
Shaeffer Run	Perry	Headwaters downstream to downstream limit of Tuscarora State Forest	3.7	0.7
Camp Run	Westmoreland	Entire watershed	4.1	

In addition, the Commission is soliciting public comments regarding both options with the inclusion of tackle restrictions, such as artificial lures only.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commis-

sion, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-144. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.13. Wild brook trout enhancement.

(a) The Executive Director, with the approval of the Commission, may designate waters as "Wild Brook Trout Enhancement Regulations" waters. The designation shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated "Wild Brook Trout Enhancement Regulations" waters except in compliance with the following requirements:

- (1) Brook trout may not be killed or had in possession.
- (2) There is no closed season for brook trout.
- (3) There are no tackle restrictions.
- (4) Other trout species shall be subject to Statewide regulations (including seasons, sizes and creel limits).

[Pa.B. Doc. No. 03-1119. Filed for public inspection June 13, 2003, 9:00 a.m.]

[58 PA. CODE CHS. 63, 71 AND 73]
Injurious Nonnative Species

The Fish and Boat Commission (Commission) proposes to amend Chapters 63, 71 and 73 (relating to general fishing regulations; propagation and introduction of fish into Commonwealth waters; and transportation of live fish into this Commonwealth). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking relates to injurious, nonnative species.

A. Effective Date

The proposed rulemaking, if approved on final-form, will go into effect upon publication of an order in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposal is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

E. Summary of Proposal

Black carp (*Mylopharyngodon piceus*), bighead carp (*Hypophthalmichthys nobilis*) and silver carp (*Hypophthalmichthys molitrix*) are native to Asia. They are not

native to this Commonwealth. These species were originally imported by fish farmers into waters of several states in the lower Mississippi River Valley. Black carp are mollusk eaters imported to control snails in culture ponds. Silver and bighead carp are plankton feeders, which have been cultured for sale as food fish in specialty food markets. Because black carp consume mollusks, there is concern that if released they would prey on native mussel populations. In July 2002, the United States Fish and Wildlife Service issued a notice of proposed rulemaking to list the black carp as an injurious fish species. Silver and bighead carp are capable of attaining weights of 60 and 90 pounds, respectively. Because they forage on phytoplankton and zooplankton, there is concern that food sources for forage fishes will be reduced and aquatic food chains upset. Bighead carp have escaped to the wild and have made their way towards the Great Lakes via the Upper Mississippi River system. Last year, a bighead carp was found in Lake Erie and several were found in other Great Lakes. It has recently been determined that this species can thrive and reproduce in a wider range of water temperatures and habitats than previously believed.

Several years ago, the Commission's Bureaus of Fisheries and Law Enforcement became aware that a fish dealer from Arkansas was transporting Asian carp through this Commonwealth to live fish markets in New York. The investigation revealed that the trucks were stopping at a stream in southcentral Pennsylvania to discharge tank water and add fresh water from the stream. The fish dealer and the hauler were notified that these activities were not lawful. This example emphasizes how easily injurious nonnative species could be released into Commonwealth waters.

The zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena bugensis*) are well known nonnative species introduced to the Great Lakes and Lake Erie by means of ballast water discharges in the late 1980s. The zebra mussel also has infiltrated this Commonwealth by means of the Ohio River in southwest Pennsylvania. Recently, it was found in several tributaries to the upper Allegheny River. Transfer of this species to inland waters is usually unintentional and likely the result of attachment to recreational boats. However, there is evidence that some persons may have intentionally transported zebra mussels into flooded quarries where SCUBA diving occurs to aid in clearing up the water. In addition to a quarry in southeastern Pennsylvania, there is a well-documented zebra mussel population in a dive quarry in Virginia. These species out compete and smother native mussels, foul water intakes and dramatically alter the water quality of areas they invade.

The round goby (*Neogobius melanostomus*) is a more recent invader to Lake Erie and the other Great Lakes. Population densities of this species have dramatically increased in Lake Erie, reaching densities in some areas of over 3,000 gobies/acre. Currently, there is no evidence to suggest that round gobies are present in any inland Commonwealth waters. However, they have caused considerable changes to the predator-prey relationships in Lake Erie. This species has demonstrated that it can out compete and displace native darters and sculpins. They can adapt to a variety of habitats and have the ability to spawn up to six times per year. This species represents a serious threat to native fish populations in inland waters. Additionally, another goby species, the tubenose goby (*Proterorhinus marmoratus*), has recently appeared in Lake Erie.

The Mississippi Interstate Cooperative Resource Association, of which the Commonwealth is a member, has publicly stated its opposition to the use or release of Asian carp, particularly the black carp. At its March 2003 meeting, members of the Lake Erie Committee of the Great Lakes Fishery Commission agreed that member states should move forward with regulations that specifically prohibit the possession, transport and introduction of the Asian carp species. On February 7, 2003, member state Michigan enacted new regulations that prohibit the possession and transportation of the aforementioned species plus several additional species.

Although it already is illegal under the Commonwealth's laws and regulations for anyone to release live black carp, silver carp, bighead carp, zebra mussels, quagga mussels or round gobies into Commonwealth waters, it currently is not illegal to possess, transport, offer for sale or purchase these species. Accordingly, the Commission proposes the amendments set forth in Annex A to address this issue and to further emphasize that it is unlawful to possess, introduce, import and transport these species in this Commonwealth.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions regarding the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-143. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.46. Sale, purchase or barter of [**live snakehead**] **injurious, nonnative** species.

It is unlawful for a person to sell, purchase, offer for sale or barter **the following** live [**snakehead**] species in this Commonwealth[.]:

- (1) **Snakehead (all species).**

- (2) **Black carp (*Mylopharyngodon piceus*).**
- (3) **Bighead carp (*Hypophthalmichthys nobilis*).**
- (4) **Silver carp (*Hypophthalmichthys molitrix*).**
- (5) **Zebra mussel (*Dreissena polymorpha*).**
- (6) **Quagga mussel (*Dreissena bugensis*).**
- (7) **Round goby (*Neogobius melanostomus*).**
- (8) **Tubenose goby (*Proterorhinus marmoratus*).**

CHAPTER 71. PROPAGATION AND INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

§ 71.6. Prohibited acts.

* * * * *

(d) It is unlawful to possess **the following** live [**snakehead**] species in this Commonwealth. It is unlawful to introduce or import **the following** live [**snakehead**] species into the waters of this Commonwealth[.]:

- (1) **Snakehead (all species).**
- (2) **Black carp (*Mylopharyngodon piceus*).**
- (3) **Bighead carp (*Hypophthalmichthys nobilis*).**
- (4) **Silver carp (*Hypophthalmichthys molitrix*).**
- (5) **Zebra mussel (*Dreissena polymorpha*).**
- (6) **Quagga mussel (*Dreissena bugensis*).**
- (7) **Round goby (*Neogobius melanostomus*).**
- (8) **Tubenose goby (*Proterorhinus marmoratus*).**

CHAPTER 73. TRANSPORTATION OF LIVE FISH INTO THIS COMMONWEALTH

§ 73.1. Transportation.

* * * * *

(d) Transportation of **the following** live [**snakehead**] species in or through this Commonwealth is prohibited[.]:

- (1) **Snakehead (all species).**
- (2) **Black carp (*Mylopharyngodon piceus*).**
- (3) **Bighead carp (*Hypophthalmichthys nobilis*).**
- (4) **Silver carp (*Hypophthalmichthys molitrix*).**
- (5) **Zebra mussel (*Dreissena polymorpha*).**
- (6) **Quagga mussel (*Dreissena bugensis*).**
- (7) **Round goby (*Neogobius melanostomus*).**
- (8) **Tubenose goby (*Proterorhinus marmoratus*).**

[Pa.B. Doc. No. 03-1120. Filed for public inspection June 13, 2003, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, proposed the following amendments:

Amend §§ 135.81 and 135.121—135.123 to ensure recently promulgated regulations apply to Commission administrative lands.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendments is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 8, 2003, meeting of the Commission and comments can be sent until June 20, 2003, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

The Commission is proposing to amend §§ 135.81 and 135.121—135.123 to ensure recently promulgated regulations apply to Commission administrative lands.

2. Purpose and Authority

Since new State game lands regulations were promulgated, many of the unlawful acts pertaining to State game lands are now listed in § 135.41 (relating to State game lands). To ensure these prohibitions apply to Commission administrative lands, the Commission is proposing to add a reference to § 135.41 in § 135.81 (relating to Commission administrative lands). Additionally, since § 135.41 is intended for State game lands and Commission administrative lands, the reference to § 135.41 in §§ 135.121—135.123 (relating to Federal-owned lands; State-owned lands; and political subdivision-owned lands) should be eliminated since the language in § 135.41 is inapplicable on Federal, State and political subdivision-owned lands under Commission lease or control.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands or waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The proposed amendments were made under this authority.

3. Regulatory Requirements

The proposed rulemaking does not impose any additional restrictions, but rather clarifies the application of regulations already found in § 135.2 (relating to unlawful actions) and § 135.41.

4. Persons Affected

Persons wishing to use State game lands or leased areas and other areas under agreement with the Commission will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-169. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter E. COMMISSION ADMINISTRATIVE LANDS

§ 135.81. Commission administrative lands.

[Section] Sections 135.2 and 135.41 (relating to unlawful actions; and State game lands) [pertains] pertain to lands and waters owned by the Commission, designated as regional offices, central offices, radio tower sites or visitor centers.

Subchapter G. PUBLICLY-OWNED LANDS

§ 135.121. Federal-owned lands.

In addition to [§]§ 135.2 [and 135.41] (relating to unlawful actions[; and State game lands]), the following exceptions pertain to lands and waters owned by the Federal government under Commission lease or control, or both:

* * * * *

§ 135.122. State-owned lands.

[Sections] Section 135.2 [and 135.41] (relating to unlawful actions[; and State game lands]) [pertain] pertains to lands and waters owned by the Commonwealth under Commission lease or control, or both.

§ 135.123. Political subdivision-owned lands.

[Sections] Section 135.2 [and 135.41] (relating to unlawful actions[; and State game lands]) [pertain] pertains to lands and waters owned by a political subdivision under Commission lease or control, or both.

[Pa.B. Doc. No. 03-1121. Filed for public inspection June 13, 2003, 9:00 a.m.]